

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAMS & COCHRANE, LLP,

Petitioner,

v.

CALIFORNIA STATE ARCHIVE; and
CALIFORNIA DEPARTMENT OF
JUSTICE,

Respondents.

No. 2:20-mc-121-MCE-EFB

ORDER

This miscellaneous case is before the court on petitioner Williams & Cochrane, LLP's motion to compel respondents, California State Archive ("State Archive") and California Department of Justice ("DOJ"), to comply with subpoenas duces tecum (ECF No. 1); and respondents' motion to transfer this matter to the United States District Court for the Southern District of California (ECF No. 4). For the following reasons, petitioner's motion is denied as untimely, and respondents' motion transfer is denied as moot.

The instant discovery dispute arises out of a civil action petitioner filed in the United States District Court for the Southern District of California. *See Williams & Cochrane LLP v. Quechan Tribe of Fort Yuma Indian Reservation*, No. 17-01436 GPC DEB (S.D. Cal. 2017). The court in that action issued a scheduling order providing, in relevant part: "All fact discovery shall be completed by all parties on or before May 22, 2020. 'Completed' means that all discovery

1 under Rules 30-36 of the Federal Rules of Civil Procedure, and discovery subpoenas under Rule
2 45, must be initiated a sufficient period of time in advance of the cut-off date, **so that it may be**
3 **completed** by the cut-off date, taking into account the time for service, notice and response as set
4 forth in the Federal Rules of Civil Procedure.” *Williams & Cochrane*, No. 17-01436 GPC DEB,
5 ECF No. 232 at 3 (emphasis in original). The scheduling order further provides that that “[a]ll
6 discovery motions must be filed within 30 days of the event giving rise to the dispute For
7 written discovery, the event giving rise to the discovery dispute is the date of service of the
8 response, **not** the date on which counsel reach an impasse in meet not confer efforts.” *Id.* That
9 scheduling order was subsequently modified, and the discovery deadline was continued to June
10 12, 2020. *Id.* at ECF No. 294.

11 Petitioner, a law firm, commenced this miscellaneous action in this district by filing the
12 instant motion to compel which seeks the production of certain documents for use in the litigation
13 pending in the Southern District of California. But, contrary to the Southern District’s scheduling
14 order, petitioner’s motion was noticed for hearing on June 10, 2020, just two days before the
15 close of discovery in the underlying action. Even if this court were to conclude that petitioner is
16 otherwise entitled to the order sought, there is insufficient time to complete the production by the
17 close of discovery in the in the Southern District. Thus, the motion is untimely under the
18 governing scheduling order.


19 Furthermore, petitioner filed its motion to compel more than 30 days after “the events
20 giving rise to the dispute.” *Williams & Cochrane*, No. 17-01436 GPC DEB, ECF No. 232 at 3.
21 Petitioner served both the DOJ and State Archives with subpoena, which each required
22 production of documents by March 24, 2020. ECF Nos. 1-7, 1-9. The DOJ served its objections
23 and responses on March 16, 2020 (ECF No. 1-10), and the State Archives serviced its objections
24 and responses on March 20, 2020 (ECF No, 1-12). Petitioner, however, waited until May 13,
25 2020, to file its motion to compel compliance with those subpoenas. ECF No. 1. Thus, the
26 motion was filed more than 30 days after the events giving rise to the dispute and for that
27 additional reason the motion is untimely under the scheduling order issued in the underlying case.
28 Whether good cause exists to modify that scheduling order is beyond the purview of this court.

Accordingly, it is hereby ORDERED that:

1. Petitioner's motion to compel (ECF No. 1) is denied as untimely;
2. Respondents' motion to transfer venue (ECF No. 4) is denied as moot; and
3. The June 10, 2020 hearing is vacated.

So Ordered.

DATED: June 9, 2020.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE